

Office of Personnel Management

§575.314

or category of employees) has been reduced to a level that makes it unnecessary to continue payment at the level originally approved (or at all);

(iv) Whether budgetary considerations make it difficult to continue payment at the level originally approved (or at all); or

(v) Other supporting factors.

(4) An agency must terminate a retention incentive authorization when no service agreement is required if the employee is demoted or separated for cause (*i.e.*, for unacceptable performance or conduct), the employee receives a rating of record (or an official performance appraisal or evaluation under a system not covered by 5 U.S.C. chapter 43 or 5 CFR part 430) of less than “Fully Successful” or equivalent, or the agency assigns the employee to a different position.

(5) Termination or reduction of a retention incentive is not grievable or appealable under any law or regulation.

(6) If an agency reduces or terminates a retention incentive under paragraph (g) of this section, the agency must notify the employee in writing. The employee is entitled to receive any scheduled incentive payments through the end of the pay period in which the written notice is provided or until the date of separation, if sooner.

§575.312 Internal monitoring requirements and revocation or suspension of authority.

(a) Each agency must monitor the use of retention incentives to ensure that its retention incentive plan and the payment of retention incentives are consistent with the requirements and criteria established under 5 U.S.C. 5754 and this subpart.

(b) When OPM finds that an agency is not paying retention incentives consistent with the agency’s retention incentive plan and the criteria established under 5 U.S.C. 5754 or this subpart or otherwise determines that the agency is not using this authority selectively and judiciously, OPM may—

(1) Direct the agency to revoke or suspend the authority granted to any organizational component of the agency and, with respect to any category or categories of employees, require that

the component obtain approval from the agency’s headquarters level before paying a retention incentive to such employees; or

(2) Revoke or suspend the authority granted to the agency under this subpart for all or any part of the agency and, with respect to any category or categories of employees, require that the agency obtain OPM’s approval before paying a retention incentive to such employees.

§575.313 Records and reports.

(a) Each agency must keep a record of each determination to pay a retention incentive and make such records available for review upon OPM’s request.

(b) By March 31 in each of the years 2006 through 2010, each agency must submit a written report to OPM on the use of the retention incentive authority within the agency during the previous calendar year for use in compiling an OPM report to Congress, as required by section 101(c) of Public Law 108–411. Each agency report must include—

(1) A description of how the authority to pay retention incentives was used in the agency during the previous calendar year;

(2) The number and dollar amount of retention incentives paid during the previous calendar year to individuals by occupational series and grade, pay level, or other pay classification; and

(3) Other information, records, reports, and data as OPM may require.

§575.314 Retention allowances in effect before May 1, 2005.

This subpart does not apply to a retention allowance authorized under 5 U.S.C. 5754 and 5 CFR part 575, subpart C, before May 1, 2005. Such allowances must continue to be paid until the retention allowance is reauthorized or terminated or until April 30, 2006, whichever comes first, subject to the regulations applicable to retention allowances before May 1, 2005. (See 5 CFR part 575 and part 530, subpart B, contained in the 5 CFR, parts 1 to 699, edition revised as of January 1, 2005.)